

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

RONALD G. JOHNSON,

Plaintiff,

:

Case No. 3:16-cv-136

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

GARY MOHR, DIRECTOR,  
Ohio Department of Rehabilitation  
and Corrections,

Defendant.

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**DECISION AND ORDER GRANTING MOTION TO DISMISS,  
WITHDRAWING REPORT AND RECOMMENDATIONS, AND  
DENYING MOTION TO SUSPEND FILING FEE**

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Ronald Johnson, a prisoner who has been denied habeas corpus relief, filed this action to attempt to obtain the same relief (Complaint, ECF No. 1). Johnson did not pay the filing fee, but attached an Affidavit of indigency and copies of his prison account sufficient for the Court to determine his initial filing fee under the Prison Litigation Reform Act. *Id.* The Court then ordered collection of the filing fee and filed a Report and Recommendations recommending dismissal because of the Eleventh Amendment and the bar of *Heck v. Humphrey*, 512 U.S. 477 (1994)(ECF No. 2, 3).

Johnson now seeks to withdraw the case (ECF No. 4) which he is entitled to do under Fed. R. Civ. P. 41. The case is ordered DISMISSED WITHOUT PREJUDICE.

Johnson also requests that the Court “suspend the final filing cost as it creates an undue hardship on me.” *Id.* . The Court is not authorized to do that. When Congress passed the PLRA, it was attempting to address the flood of frivolous litigation from prisons by making prisoners pay the filing fee, albeit over time. If filing fees were suspended because of perceived hardship, the Congressional action would not have its intended effect of discouraging frivolous lawsuits by making prisoners pay at least some of the cost of litigating those cases. In this case, substantial judicial time had to be expended to research and write the Report. It is completely just that Plaintiff reimburse the public some of that cost.

Because the case has been dismissed, the Report and Recommendations is moot and is hereby WITHDRAWN.

April 25, 2016.

s/ *Michael R. Merz*  
United States Magistrate Judge